

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

DARRON MORGAN,

Plaintiff,

VS.

TDCJ MCCONNELL UNIT, *et al*,

Defendants.

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CIVIL ACTION NO. 2:11-CV-00124

**ORDER ADOPTING  
MEMORANDUM AND RECOMMENDATION TO  
DENY PLAINTIFF'S MOTION FOR RULE 60(b) RELIEF**

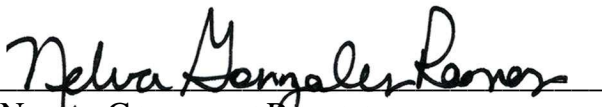
Pending before the Court is Plaintiff's letter presenting a motion for relief under Fed. R. Civ. P. 60(b). D.E. 89. On February 8, 2013, United States Magistrate Judge B. Janice Ellington issued a Memorandum and Recommendation (D.E. 91), recommending that Plaintiff's Motion for Rule 60(b) Relief be denied. Plaintiff timely filed his Objections (D.E. 92) on February 25, 2013.

The Memorandum and Recommendation is based, in part, on the Plaintiff's failure to demonstrate "reasonable diligence" to discover the "new evidence" prior to the Rule 59(b) deadline. Fed. R. Civ. P. 60(b)(2). Plaintiff objects because, he asserts, he could not discover the side effects of the subject medication prior to summary judgment because Defendants refused to provide that information to him. He has not, however, provided any evidence of the efforts he took to obtain that information, of whether the medication was accompanied by a package insert available to him, or how Defendants inappropriately failed to respond to a proper request for the information.

Plaintiff's motion consisted of a verified letter, which contains nothing but self-serving conclusory statements. This does not constitute probative evidence. *E.g., United States v. Lawrence*, 276 F.3d 193, 197 (5<sup>th</sup> Cir. 2001). No additional evidence or authorities were offered in his Objections. Plaintiff has not shown that this "new evidence" would have overcome the qualified immunity defense, which requires that the Defendants' conduct be objectively unreasonable under the clearly established law and circumstances. *E.g., Brumfield v. Hollins*, 551 F.3d 322, 326 (5<sup>th</sup> Cir. 2008). Plaintiff's Objection is **OVERRULED**.

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's Memorandum and Recommendation, as well as Plaintiff's Objections, and all other relevant documents in the record, and having made a *de novo* disposition of the portions of the Magistrate Judge's Memorandum and Recommendation to which objections were specifically directed, the Court **OVERRULES** Plaintiff's Objections and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Accordingly, Plaintiff's Motion for Relief Pursuant to Rule 60(b) (D.E. 89) is **DENIED**.

ORDERED this 9th day of August, 2013.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE